

June 18, 2014



Talbot County Planning Commission Final Decision Summary

Wednesday, May 7, 2014 at 9:00 a.m.
Talbot County Library, Conference Room
100 W Dover Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
Michael Sullivan
Paul Spies
Jack Fischer

Staff:

Mary Kay Verdery, Assistant Planning Officer
Brett Ewing, Planner I
Elisa Deflaux, Environmental Planner
Mike Mertaugh, Assistant County Engineer
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:00 a.m. stating that Commissioner Boicourt was absent and to receive a positive vote, three affirmative votes would be required, a tie vote is considered a negative vote. He stated any applicants who so desired could withdraw their application without prejudice and be scheduled for a future meeting. The applicants all chose to proceed.

2. Decision Summary Review—April 2, 2014—The Commission noted the following corrections to the draft decision summary:

- a. Line 40, insert an “it” and an “if” in the sentence, “Commissioner Hughes stated that it would not be regarded as a boon if we were required...”
- b. Line 88, correct the sentence to read “Commissioner Hughes noted that the County Council appointed a Blue Ribbon Commission to examine the two hundred foot buffer issue and provide recommendations to improve the local critical area program.”
- c. Line 104, change “perhaps” to “that”.
- d. Line 234; correct spelling of “rationale”.
- e. Line 236, Delete sentence re: lot 4.

Commissioner Spies moved to approve the draft Planning Commission Decision Summary for April 2, 2014, as amended; Commissioner Sullivan seconded the motion. The motion carried unanimously.

3. Old Business

a. Critical Area Mapping Project

Ms. Verdery stated that staff is requesting a Planning Commission recommendation to the County Council on this matter. The map changes could result in zoning designation change amendments to areas that were added or

53 deleted from the critical area. Staff has also prepared text amendment associated
54 with lot coverage for lots that were impacted by their inclusion and the effect of
55 lot coverage requirements. Adopting these maps will create a more accurate
56 digitally generated geo-referenced 1,000 foot critical area boundary. There will be
57 critical area designations of land, zoning amendments and technical corrective
58 amendments to previous zoning maps.
59

60 Some statistics based on the critical update:

- 61 1. Critical coverage 65,260.88 acres,
- 62 2. 57,880.58 are in the Resource Conservation designation,
- 63 3. Limited Development Area 7,237.61,
- 64 4. Intensely Developed Area 106.17 acres.
- 65 5. Federal/wetlands 36.51.
- 66

67 We are proposing a text amendment to address the impact of the Critical Area's
68 lot coverage limits on existing developed lots. The amendment reads as follows:
69

70 F. Lots of record wholly or partially outside of the 1,000-foot Critical Area
71 boundary prior to (date of adoption) whose acreage within the critical area
72 will increase due to the State Base Map update, are subject to the
73 following lot coverage limitations:
74

- 75 (1) Lots greater than ½ acre, lot coverage may not exceed 15% of
76 the lot area located within the critical area.
77
- 78 (2) Lots ½ acre or less, lot coverage may not exceed 40% of the lot
79 area located within the critical area.
80
- 81 (3) Non-conforming lots. A legally developed lot exceeding the
82 percentage of lot coverage in Subsection F(1) or (2) above
83 prior to (date of adoption) shall be considered legally
84 nonconforming for purposes of lot coverage requirements. See
85 Article VIII for nonconforming structure provisions.
86

87 * * *

88
89 Commissioner Hughes questioned the letter from Mr. Parker, Esquire, and the
90 language requested therein. Ms. Verdery stated to add the term "critical area"
91 would mean adding it to every sentence in Article VI, which staff believes is
92 unnecessary.
93

94 Commissioner Hughes asked about the effect of decreased Critical Area coverage.
95 Ms. Verdery stated that the existing and neighboring property uses were taken
96 into consideration when zoning was proposed to be changed, in the same way it
97 was done for areas where Critical Area was increased.
98

Commissioner Hughes stated this process began in 2008, and the County made multiple efforts and held multiple hearings, he believes the public information to day has been well done and little more could have been done. He asked about correcting mistakes to the new maps. Ms. Verdery stated the standard change or mistake rule would apply. Until the County Council and Critical Area Commission formally adopt the maps, the public may seek corrections at the staff level. Postcards were mailed to everyone who was affected in 2010; public hearings were held in 2010. Postcards were again recently mailed sent to affected parties. The newspaper has published informative articles.

Commissioner Hughes asked for public comments; none were offered.

Commissioner Spies moved to recommend to the County Council to adopt the Critical Area Maps created by the Critical Area Mapping Project and the IDA/LDA Book (Intensely Developed Area/ Limited Developed Area), also adopting the critical area designation and zoning classifications; seconded by Commissioner Fischer. The motion carried unanimously.

b. Critical Area Lot Coverage—Text Amendment

Commissioner Sullivan moved to recommend to the County Council to adopt the proposed Text Amendment to §190-136 of the *Talbot County Zoning Code*; seconded by Commissioner Spies. The motion carried unanimously.

Ms. Verdery thanked Lisa Hoegder of the Critical Area Commission, for all of her help and the Critical Area Commission Staff as well as Salisbury University. Within the next two weeks the maps should be available on our County website.

4. New Business

- a. Administrative Variance—Mark Pacious and Mary Pacious #A203—702 Eastside Avenue, St. Michaels, MD 21663, (map 201, parcel 1207, Lot 17B, zoned Town Residential/Critical Area), Lars Erickson, East Bay Construction Services, LLC, Agent.

Mr. Ewing presented the staff report for a variance request to construct a 400 square foot pervious deck with 16 square feet of steps located within a buffer management area. The property is located in buffer management area No. 13A which has an established buffer width of 64 feet. The proposed expansions will be located no closer to mean high water than the existing dwelling at 32.6 feet.

Staff recommendations include:

1. The applicant shall make an application to the Planning and Permits Department and follow all rules, procedures, and construction timelines as outlined by regarding new construction.

- 145 2. The applicant shall commence construction on the proposed improvements
146 within eighteen (18) months from the date of the Planning Department's
147 "Notice to Proceed".
- 148 3. The applicant shall build the deck and steps to meet the Maryland Chesapeake
149 Bay Critical Areas Commission's standards for pervious decks as follows:
- 150 a. Install decking with a minimum of 1/4" spacing between the decking
 - 151 strips;
 - 152 b. Install approved native plants around the perimeter of the deck to
 - 153 minimize runoff.
- 154

155 John Murray, Esquire, of Miles and Stockbridge appeared on behalf of the
156 applicants. Mr. Murray indicated the request needed no further explanation.

157
158 Commissioner Hughes asked for Commission and public comments; none were
159 made.

160
161 Commissioner Sullivan moved to recommend to the Planning Officer to approve
162 the administrative variance to expand a legal non-conforming structure for Mark
163 Pacious and Mary Pacious, 702 Eastside Avenue, St. Michaels, MD 21663,
164 provided compliance with staff recommendations occurs; Commissioner Fischer
165 seconded. The motion carried unanimously.

- 166
167 b. Administrative Variance—Frank Watkins, M.D. #A204—5161 Ulmer Road,
168 Royal Oak, MD 21662, (map 46, grid 24, parcel 25, zoned Rural Conservation),
169 Bill Stagg, Lane Engineering, LLC, Agent.

170
171 Mr. Ewing presented the staff report of the applicant's request for construction of
172 a second floor master bath addition over an existing porch totaling 148 square feet
173 of new gross floor area. The proposed expansion will be located no closer to mean
174 high water than the existing dwelling at 49.7 feet.

175
176 Staff recommendations include:

- 177
178 1. The applicant shall make an application to the Planning and Permits
179 Department and follow all rules, procedures, and construction timelines as
180 outlined by regarding new construction.
- 181 2. The applicant shall commence construction on the proposed improvements
182 within eighteen (18) months from the date of the Planning Department's
183 "Notice to Proceed".
- 184

185
186 Mr. Stagg, Lane Engineering, appeared on behalf of the applicant stating he was
187 available to answer the Commission's questions. Commissioner Hughes noted
188 the Critical Area Commission did not object.

189

Commissioner Sullivan moved to recommend to the Planning Officer to approve the administrative variance to expand a legal non-conforming structure for Frank Watkins, M.D., 5161 Ulmer Road, Royal Oak, MD 21662, provided compliance with staff recommendations occurs; Commissioner Fischer seconded. The motion carried unanimously.

- c. Phillips Wharf Environmental Center, Inc. (PWEC)—6129 Tilghman Island Road, Tilghman, MD 21671 (map 44A, parcel 25, zoned Village Center), Elizabeth Fink, Fink Whitten and Associates, LLC, agent.

Mr. Ewing presented the staff report for the applicant's request for modification to special exception No. 951 to expand the seafood processing facility to include General Retail Sales and all ancillary uses related to Fisheries Activities. The current 2,206 square foot structure will be replaced and expanded to 7,051 square feet. The new structure will house wholesale distribution, a retail seafood market, restaurants and the public and shore based facilities for docking, offloading and processing. The 380 square foot general retail space (gift shop) will be located outside of the shoreline development buffer as this use is not considered a Water Dependent Facility.

Staff has reviewed the Talbot County Code standards and offers the following:

- (1) The proposed uses shall be consistent with the purposes and intent of the *Talbot County Comprehensive Plan*.
- (2) The use will comply with the standards of the zoning district, in which it is located, except as those standards may have been modified by the granting of a variance.
- (3) The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area, and will not be detrimental to the economic value of neighboring property.
- (4) The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances.
- (5) The use will not have a significant adverse impact on public facilities or services including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services.
- (6) The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic.

- 236 (7) The proposed use will not produce traffic volumes which would exceed the
237 capacity of public or private roads in the area or elsewhere in the County,
238 based on the road classifications established in Chapter 134, The Talbot
239 County Roads and Bridges Ordinance, and other applicable standards for road
240 capacity.
241
- 242 (8) Any vehicle access to proposed off-street parking areas and drive-in facilities
243 shall be designed to minimize conflicts between vehicular, bicycle and
244 pedestrian traffic and to minimize impacts on adjacent properties and on
245 public or private roads. In addition, any resulting commercial and truck traffic
246 should not use a residential street nor create a hazard to a developed
247 residential area.
248
- 249 (9) The use will not significantly adversely affect wildlife with respect to the
250 site's vegetation, water resources, or its resources for supplying food, water,
251 cover, habitat, nesting areas, or other needs of wildlife.
252
- 253 (10) The use will not significantly adversely affect adjacent existing agricultural
254 uses.
255

256 Staff recommendations include:
257

- 258 1. The applicant shall apply for major site plan review.
259 2. The activities occurring in the shoreline development buffer shall be limited to
260 the fisheries activities use, as defined in the *Talbot County Code*.
261 3. The proposed path south of the building located in the shoreline buffer shall
262 be covered in mulch.
263 4. The general retail use shall not exceed 2,000 square feet of gross floor area.
264 5. The general retail use shall be within 300 feet of a general retail use existing
265 as of June 22, 1991.
266 6. The applicant shall build the deck and steps to meet the Maryland Chesapeake
267 Bay Critical Areas Commission's standards for pervious decks as follows:
268 a. Install decking with a minimum of 1/4" spacing between the decking
269 strips;
270 b. Install approved native plants around the perimeter of the deck to
271 minimize runoff.
272 7. The applicant shall commence construction on the proposed improvements
273 within eighteen (18) months from the date of the Board of Appeals approval.
274 8. The applicant shall make applications to and follow all of the rules,
275 procedures, and construction timelines as outlined by the Permits and
276 Inspections Department for new construction.
277

278 Elizabeth Fink, Fink Whitten and Associates, Inc. and Kelley Cox appeared on
279 behalf of Phillips Wharf Environmental Center, Inc. (PWEC). Ms. Fink stated the
280 applicant has been working feverishly to make this a new destination,
281 environmental learning center and working processing plant. They also want to

282 take the site and integrate some stormwater concepts; landscaping is going to be
283 well done, making connection to the Waterman's Museum's "W" House.

284
285 Commissioner Hughes questioned the retail market use, hours of operation,
286 number of employees, days of the week, parking, and nuisance value to
287 neighbors.

288 Ms. Cox stated the hours will be basically the same. There will be a shop to sell t-
289 shirts and hats, but they are not planning a restaurant. A picnic area is available if
290 someone wants to picnic.

291
292 Commissioner Sullivan asked about setting the building further back. Ms. Cox
293 stated they took the original footprint of the oyster house and elongated it to have
294 space for aquaculture and shell fish culture, and to facilitate unloading a skipjack.

295
296 Commissioner Fischer asked how the lot coverage could be reduced 10,000
297 square feet. Ms. Cox stated they are going to use reinforced turf, pervious parking
298 area, and provide pervious coverage wherever possible. The site will include
299 increased landscaping with native gardens to serve as an educational piece for
300 residential stormwater treatments.

301
302 Commissioner Hughes asked for public comments; none were made.

303
304 Commissioner Spies motioned to make a positive recommendation to the Board
305 of Appeals to approve the Phillips Wharf Environmental Center, Inc. (PWEC) c/o
306 Kelley Cox special exception modification, with all staff conditions being
307 complied with, Commissioner Sullivan seconded. The motion carried
308 unanimously.

- 309
310 d. Harleigh Revocable Deed of Trust, Brian Cass, Substitute Trustee; Charlecote,
311 L.L.C.; Harleigh Farm, LLC—Harleigh Lane and Oxford Road, Oxford, MD
312 21654 (map 48, grid 8, parcel 138 and 6, zoned Rural Conservation/Rural
313 Residential), Bill Stagg, Lane Engineering, LLC, Agent.

314
315 Mr. Ewing presented the staff report for the Preliminary Plan review of the Major
316 Revision to establish Benjamin Lane, a 40' wide private road, expand Lot 4 and
317 abandon Lot 5.

318
319 Staff recommendations include:

- 320
321 1. Address the April 9, 2014 Technical Advisory Committee comments of the
322 Planning and Permits Department, Department of Public Works,
323 Environmental Health Department, Talbot Soil Conservation District, the
324 Environmental Planner and the Critical Area Commission prior to final plat
325 submittal.

Mr. Stagg said he appeared on behalf of Harleigh Farm, LLC, et al. and was available for questions. Commissioner Hughes asked if the all TAC items had been addressed.. Mr. Stagg stated the road is under construction and the other items on the Technical Advisory Committee comments are currently being addressed. He asked for preliminary/final approval if possible.

Commissioner Hughes asked for public comments; none were offered.

Commissioner Sullivan moved to recommend to the Planning Officer to approve the preliminary/final plan review—major revision plat, with staff recommendations, for Harleigh Revocable Deed of Trust, Brian Cass, Substitute Trustee; Charlecote, L.L.C.; Harleigh Farm, LLC—Harleigh Lane and Oxford Road, Oxford, MD 21654; Commissioner Spies seconded. The motion carried unanimously.

5. Discussions Items

6. Staff Matters

- a. FEMA Coastal Flood Insurance Rate Map update—Ms. Verdery stated FEMA provided the County with a letter stating effective April 11, 2014 the formal ninety day review period had begun. However staff has questioned the accuracy of the maps made available to the public on April 11th ad they did not contain the complete list of corrections noted by County staff. Talbot County staff is working to address this and have accurate maps available for public review. Adjustments to the scheduled public meeting and the review period may be required. Staff is negotiating to achieve a public review process based on the most accurate draft maps possible. Public review and pertinent information will be put in the newspaper.

7. WorkSessions

8. Commission Matters

9. Adjournment—Commissioner Hughes adjourned the meeting at 10:02 a.m.